

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

DAVID LIVINGSTON,)	
)	
Petitioner,)	
)	
v.)	No.: 3:10-CR-88-TAV-HBG-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

AMENDED MEMORANDUM OPINION AND ORDER¹

Before the Court is Petitioner's motion to vacate, set aside, or correct his sentence [Doc. 66], and supplement thereto [Doc. 72]. Because defendant has already litigated a 28 U.S.C. § 2255 motion on the merits [*see* Docs. 19, 44, 45], the instant motion challenging his sentence is a second or successive one. Under the Antiterrorism and Effective Death Penalty Act of 1996, petitioner cannot file a second or successive § 2255 motion in this Court until he has moved in the Sixth Circuit Court of Appeals for an order authorizing this Court to consider the motion. 28 U.S.C. § 2255(h). The Court has not received any such order. Accordingly, the Clerk is **DIRECTED** to **TRANSFER** this motion [Doc. 66] and supplement [Doc. 72] to the Sixth Circuit under 28 U.S.C. § 1631 for authorization.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE

¹ This Amended Memorandum Opinion and Order is identical in all respects to the original order previously entered by the Court, with the exception of the addition of this footnote. The Court was recently informed that the Clerk's Office erroneously failed to mail a copy of the original order to one or more parties entitled to service by mail. To protect any potential appellate rights that may, or may not, be impacted, the Court is issuing this This Amended Memorandum Opinion and Order.